

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BILLUPS PERCY,

Plaintiff,

- against -

NBCUNIVERSAL MEDIA, LLC,

Defendant.

Docket No. 1:17-cv-7564

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Billups Percy (“Percy” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant NBCUniversal Media, LLC, (“NBCUniversal” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted video of Anthony Hayes, owned and registered by Percy, a Louisiana-based professional photojournalist and video journalist. Accordingly, Percy seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Percy is a professional photojournalist and video journalist in the business of licensing his photographs and videos to online, print, and television stations for a fee, having a usual place of business at 2357 Cours Carson Street, Mandeville, Louisiana 70448.

6. Upon information and belief, NBCUniversal is a foreign limited liability corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 30 Rockefeller Plaza, New York, New York 10112. Upon information and belief, NBCUniversal is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, NBCUniversal has owned and operated a website at the URL: www.nbcnews.com (the “Website”) and has produced the show NBC Nightly News (the “TV Show”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Video

7. Percy videoed Anthony Hayes wielding a knife while surrounded by New Orleans police officers (the “Video”).

8. Percy is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

9. The Video was registered with the United States Copyright Office and was given Copyright Registration Number PA 1-989-123.

B. Defendant’s Infringing Activities

10. Upon information and belief, NBCUniversal broadcasted the Video on the TV Show and ran the broadcast on the Website. See <https://www.nbcnews.com/nightly->

news/video/nightly-news-full-broadcast-april-10th-663120963921. A true and correct copy of the broadcast on the Website is attached hereto in a CD and on a screen shot in Exhibit A.

11. Upon information and belief, NBCUniversal broadcasted the Video on another article on the Website entitled *Slain Saints Player Will Smith Had Dinner With Cop Sued by His Alleged Killer*. See <https://www.nbcnews.com/news/us-news/slain-saints-player-will-smith-had-dinner-cop-sued-his-n553781>. A true and correct copy of the Video on the article is attached hereto in a CD and on a screen shot in Exhibit B.

12. NBCUniversal did not license the Video from Plaintiff for its Website or TV Show, nor did NBCUniversal have Plaintiff's permission or consent to publish the Video on its Website or TV Show.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST NBCUNIVERSAL)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. NBCUniversal infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video on the Website and TV Show. NBCUniversal is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by NBCUniversal have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant NBCUniversal be adjudged to have infringed upon Plaintiff's copyrights in the NBCUniversal in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 3, 2017

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